



Federal Communications Commission  
Washington, D.C. 20554

August 3, 2007

DA 07-3523

**Via Certified Mail, Return Receipt Requested**

Golden Arrow Paging, Inc.  
c/o Foster Charitable Foundation, Inc.  
Attn: David L. Greenwald  
8200 S. Quebec #158  
Englewood, CO 80112

**Re: Interim Default Payment Obligations for Auction No. 40**

Dear Mr. Greenwald:

This letter provides notice of the interim default payment obligations for Golden Arrow Paging, Inc. ("Golden Arrow") with respect to its defaults arising out of a Federal Communications Commission ("Commission") auction of Lower and Upper Paging Band licenses ("Auction No. 40"). Golden Arrow, a participant in Auction No. 40, was the winning bidder on twenty-two licenses.<sup>1</sup> As described below, Golden Arrow defaulted on its final payment obligations for its winning bids for all twenty-two licenses. Accordingly, this letter sets forth the interim default payment obligations of Golden Arrow for its defaulted bids and dismisses Golden Arrow's Form 601 long-form applications.<sup>2</sup>

Under the Commission's Rules ("Rules"), a bidder who fails to timely remit the required down or final payment for a license for which it was the high bidder is in default, its application is dismissed, and it is subject to a default payment.<sup>3</sup> The default payment has two components. The first component is the difference between the bidder's net defaulted bid and the subsequent net winning bid, or the difference between the bidder's gross defaulted bid and the subsequent gross winning bid, whichever is less, the next time the license is offered by the Commission (so long as the subsequent winning bid is less than the defaulted bid).<sup>4</sup> This component of the default payment cannot be determined until after the licenses on which Golden Arrow defaulted are re-auctioned. The second component of the default payment is an additional payment equal

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<sup>1</sup> See Lower and Upper Paging Bands Auction Closes; Winning Bidders Announced, *Public Notice*, 16 FCC Rcd 21821 (2001) ("*Closing Public Notice*").

<sup>2</sup> ULS File Numbers are 0000730960, 0000730981, and 0000730994.

<sup>3</sup> 47 C.F.R. §§ 1.2104(g)(2), 1.2109(b).

<sup>4</sup> 47 C.F.R. § 1.2104(g)(2).

to three percent (3%) of the defaulter's bid, or the subsequent winning bid, whichever is less.<sup>5</sup> If either bid amount is subject to a bidding credit, the three percent (3%) will be calculated using the same bid amounts and basis (net or gross bids) as in the first component of the default payment.<sup>6</sup> In the event that the subsequent winning bid is greater than or equal to the defaulted bid, the total default payment is equal to three percent (3%) of the defaulted bid.<sup>7</sup> Until the close of the subsequent auction, the Commission cannot determine the full amount of the default payment that is owed. Therefore, the Commission assesses an interim payment amounting to between three and twenty percent of the net winning bid.<sup>8</sup> The remainder, if any, is assessed once a subsequent winning bid for the defaulted license is established.

On January 31, 2007, the Wireless Telecommunications Bureau ("Bureau") announced that it was prepared to grant Golden Arrow's applications for the twenty-two licenses from Auction No. 40.<sup>9</sup> The Bureau also announced that by no later than February 14, 2007, Golden Arrow was required to submit its final payment for the licenses.<sup>10</sup> If the payment was not received by that date, Golden Arrow had until March 1, 2007, to submit the payment plus a late fee equal to five percent of the amount due.<sup>11</sup> Golden Arrow's net winning bids for the twenty-two licenses totaled \$59,000.00.<sup>12</sup> Under the Rules, winning bidders in Auction No. 40 were required to have on deposit enough funds to cover the twenty (20) percent down payment on their winning bids, and payments for withdrawn bids, within ten business days of the release of the *Closing Public Notice*.<sup>13</sup> Golden Arrow had sufficient funds on deposit from its upfront payment to cover its withdrawal payment and the down payment for all of the licenses.<sup>14</sup> The Bureau applied Golden Arrow's down payment for the licenses in the amount of \$11,800.00 and the remaining upfront payment on deposit in the amount of \$5,650.00 toward the final payment

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *See Part 1 Third Report and Order*, 13 FCC Rcd 374, 434 ¶ 102; *Competitive Bidding Fifth Report and Order*, 9 FCC Rcd at 5563 n.51; *see also Competitive Bidding Second Report and Order*, 9 FCC Rcd at 2382-83 ¶ 197.

<sup>9</sup> *See Wireless Telecommunications Bureau Announces It is Prepared to Grant Upper and Lower Paging Band Licenses Upon Full and Timely Payment, Public Notice*, 22 FCC Rcd. 1181 (2007).

<sup>10</sup> 47 C.F.R. § 1.2109(a).

<sup>11</sup> 47 C.F.R. § 1.2109(a).

<sup>12</sup> *See Closing Public Notice* at Attachment A.

<sup>13</sup> 47 C.F.R. § 1.2107(b).

<sup>14</sup> *See Closing Public Notice* at Attachment B.

due.<sup>15</sup> Golden Arrow was required to pay the remaining balance of \$41,550.00. Golden Arrow failed to make the payment by the March 1, 2007, due date.

Accordingly, Golden Arrow is considered to be in default on all twenty-two licenses for which it was the high bidder in Auction No. 40, its long-form applications are dismissed, and it is subject to the applicable default payments.<sup>16</sup> Pursuant to Section 1.2104(g)(2) of the Rules, Golden Arrow owes interim default payments totaling \$1,770.00 which is three-percent (3%) of the total of its net winning bids of \$59,000.00.<sup>17</sup> Pursuant to Section 1.2106(e) of the Rules, we will apply Golden Arrow's funds on deposit to satisfy the interim default payment obligations.<sup>18</sup> Once subsequent high bids are established for the relevant spectrum, we will determine Golden Arrow's final default payment obligations.<sup>19</sup> If additional payments are required, a further order will assess such payments.<sup>20</sup>

### Ordering Clauses

Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Section 1.2104(g)(2) of the Commission's Rules, 47 C.F.R. § 1.2104(g)(2), Golden Arrow Paging, Inc. is ASSESSED interim default payments, as computed in Attachment A, totaling \$1,770.00 for its defaulted high bids for the licenses in Auction No. 40.

IT IS FURTHER ORDERED that, pursuant to Sections 1.2104 and 1.2106 of the Commission's Rules, 47 C.F.R. §§ 1.2104 and 1.2106, Golden Arrow Paging, Inc.'s funds on deposit will be applied to satisfy the interim default payment obligations.

IT IS FURTHER ORDERED that, pursuant to Section 1.2109 of the Commission's Rules, 47 C.F.R. § 1.2109, the Form 601 long-form applications of Golden Arrow Paging, Inc., ULS File Numbers 0000730960, 0000730981, and 0000730994, are DISMISSED with prejudice.

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<sup>15</sup> Golden Arrow's upfront payment was in the amount of \$20,000. After applying the upfront payment to the withdrawal payment of \$2,550.00 and the required down payment of \$11,800.00, the Commission had an additional \$5,650.00 remaining on deposit. See *Closing Public Notice*, Attachment B.

<sup>16</sup> 47 C.F.R. §§ 1.2104(g)(2), 1.2109(c).

<sup>17</sup> 47 C.F.R. § 1.2104(g)(2); see Attachment A for the interim default payment for each license.

<sup>18</sup> 47 C.F.R. § 1.2106(e).

<sup>19</sup> *Id.*

<sup>20</sup> See *Mountain Solutions Ltd., Inc.*, FCC 98-220, *Memorandum Opinion and Order*, 13 FCC Rcd. 21,983, 21,997 ¶ 25 (1998).

IT IS FURTHER ORDERED that, pursuant to Section 1.2104(g) of the Commission's Rules, 47 C.F.R. § 1.2104(g), Golden Arrow Paging, Inc. will be subject to final default payments for its defaulted high bids for the licenses in Auction No. 40 once the spectrum associated with the licenses is re-auctioned and the full default payment amounts are determined.

IT IS FURTHER ORDERED that this letter shall be sent to the applicant and its representatives by certified mail, return receipt requested. This action is taken pursuant to authority delegated by Sections 0.283 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.283 and 0.331.

Sincerely,

Rita Cookmeyer  
Financial Policy Analyst  
Auctions and Spectrum Access Division  
Wireless Telecommunications Bureau

## Attachment A

### Defaulted Licenses

<b>License Market/Channel</b>	<b>Gross Winning Bid Amount Auction No. 40</b>	<b>Net Winning Bid Amount Auction No. 40</b>	<b>Interim 3% Default Payment</b>
BEA084FA	\$500.00	\$500.00	\$15.00
BEA085FA	\$500.00	\$500.00	\$15.00
BEA086FA	\$500.00	\$500.00	\$15.00
BEA087FA	\$3,400.00	\$3,400.00	\$102.00
BEA127FA	\$23,000.00	\$23,000.00	\$690.00
BEA128FA	\$500.00	\$500.00	\$15.00
BEA129FA	\$1,700.00	\$1,700.00	\$51.00
BEA129FB	\$1,700.00	\$1,700.00	\$51.00
BEA129FC	\$500.00	\$500.00	\$15.00
BEA129FD	\$2,400.00	\$2,400.00	\$72.00
BEA129FE	\$500.00	\$500.00	\$15.00
BEA130FA	\$3,500.00	\$3,500.00	\$105.00
BEA134FA	\$2,000.00	\$2,000.00	\$60.00
BEA173FA	\$500.00	\$500.00	\$15.00
MEA031E	\$1,000.00	\$1,000.00	\$30.00
MEA038A	\$1,000.00	\$1,000.00	\$30.00
MEA031AA	\$4,100.00	\$4,100.00	\$123.00
MEA031AJ	\$2,600.00	\$2,600.00	\$78.00
MEA031AK	\$3,000.00	\$3,000.00	\$90.00
MEA031AV	\$4,100.00	\$4,100.00	\$123.00
MEA038AK	\$1,000.00	\$1,000.00	\$30.00
MEA038AV	\$1,000.00	\$1,000.00	\$30.00
<b>Total</b>	<b>\$59,000.00</b>	<b>\$59,000.00</b>	<b>\$1,770.00</b>